

Serial No. 10/756,124
Docket No. MICRODOSE 99.02 CON2
Amendment C Under Rule 116

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REMARKS

In the Advisory Action the Examiner takes the position that it is necessary to incorporate the limitations of claims 4 and 5 into all independent claims to place the application in condition for allowance. However, in the Final Action, neither claims 4 nor claim 5 by themselves were rejected based on any art combination. Indeed, on page 8 of the Action under the heading "Claims Allowable" the Examiner indicates claims 4 and 5 "would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims". Applicants have done just that. That is to say, Applicants have amended claim 1 to incorporate the limitations of claim 4, and Applicants have had rewritten claim 5 in independent form. While the Examiner may have expressed a desire for Applicants to incorporate the limitations of claims 4 and 5 into all independent claims, the Examiner has given no reason for need to incorporate all of the limitations of claims 4 and 5 into all independent claims. Indeed, as noted above, the Examiner specifically indicated claims 4 and 5 as being allowable.

Accordingly it is believed that claim 1, which has been amended to incorporate the limitations of claim 4 which the Examiner indicated to be allowable over the art, and claim 5 which the Examiner also indicated as allowable over the art, and which has been rewritten in independent form, and claims 3 and 8-20 that depend from claim 1 are allowable. Thus, the rejection of claims 1 and 9-12 as obvious from Depui et al., the rejection of claims 1, 3, 6-9, 11 and 12 as obvious from Sturzenegger et al., and the rejection of claims 1, 3, 6-10 and 12 as obvious from Sturzenegger et al. and Digenis et al., and the rejection of claims 1, 3, 6-9, 11 and

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12 as obvious from Sturzenegger et al. and Depui et al. and the rejection of claims 1, 9-12 and 17 as obvious from Depui et al. and Sanso cannot be maintained.

Turning to the rejection of claim 21 under 35 U.S.C. 103 under 35 USC §103(a) as being unpatentable over Depui et al. (WO 97/25065) in view of Sanso (US Patent No. 6,350,468), claim 21 has been amended to incorporate the limitations of claim 5 which the Examiner acknowledges is taught by neither Depui et al. or Sanso. Accordingly, it is believed claim 5 also is allowable over the art.

The foregoing Amendment makes no claim changes that would require a further search by the Examiner. Claim 1 has been amended to incorporate the limitations of claim 4 which the Examiner indicated to be allowable. Claim 5 which the Examiner also indicated to be allowable over the art has been rewritten in independent form. All of the other claims other than claim 21 depend on claim 1 or claim 5. As to claim 21, that claim has been amended to incorporate the limitations of claim 5, which, as noted above, the Examiner indicated to be allowable. Accordingly, it is believed that no new issues have been raised, and the claims are now in order for allowance.

A terminal disclaimer was submitted with Applicant's previous Rule 116 Amendment, and as noted by the Examiner has been recorded.

Having dealt with all the objections raised by the Examiner, the Application is believed to be in order for allowance. Early and favorable action is respectfully requested.

In the event the Examiner remains unconvinced by the above, it is requested that the foregoing Amendment be entered for the purposes of Appeal since the Amendment reduces issues for appeal.

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In the event there are any fee deficiencies or additional fees are payable, please charge them (or credit any overpayment) to our Deposit Account Number 08-1391.

Respectfully submitted,

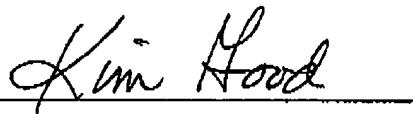


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CERTIFICATE OF FACSIMILE TRANSMISSION

I hereby certify that this correspondence is being sent via facsimile to the United States Patent Office, number 571-273-8300 on August 11, 2006, at Tucson, Arizona.

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